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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,304	04/21/2004	Satoru Ouchi	119516	4786
25944	7590	07/27/2007		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER UTAMA, ROBERT J	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 07/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/828,304

Applicant(s)

OUCHI, SATORU

Examiner

Robert J. Utama

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 04/21/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).

Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

#### ***Claim Objections***

3. Claims 15 and 16 objected to because of the following informalities: Claim 15 and 16 are objected to because they appear to be presented as a dependent claim of an apparatus claim, however the original parent claim is directed toward a method claim. Should the applicant desire to make claims toward both the method and apparatus aspect of the applicant's invention, the limitation of the method and apparatus claims should be explicitly and separately listed. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 15-16 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 15 and 16 are directed towards a program, however, a program is not part of the patentable matter. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a

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process and USPTO personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material (see MPEP 2106.01).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claim 1-4, 8-10 and 15-17 rejected under 35 U.S.C. 102(b) as being anticipated by McClintic US 6,050,823.**

**Claim 1 and 8:** McClintic provides a teaching of a simulator that impart vibration to an operator (see Abstract) by driving a vibration mechanism in accordance with a generation of a given simulation state (see FIG. 1 item 10). While the McClintic does not explicitly use the word vibration, McClintic's motion simulator is inherently capable of producing vibration since vibration is also a type of motion. McClintic's motion simulator comprised of: a simulation calculation section which performs a simulation calculation to manipulate simulator object in accordance with an operation input from an object operating section (see col. 4:40-55); a vibration mechanism control section which drive vibration mechanism on condition that a predetermined vibration occurrence (see col. 4:55-67); a vibration condition setting section which receives a vibration condition setting which specifies the vibration occurrence simulation state by an operational input from an operation section for vibration condition setting (see col. 3:27-40); wherein the vibration condition setting performs condition setting processing to receive a vibration content which includes at least vibration pattern (see col. 4:10-17) and vibration length (see FIG 2 item 22 and col. 3:60-67) and wherein the vibration mechanism

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control section drives the vibration mechanism relating to set vibration content, when the vibration occurrence simulation state specified by the vibration condition setting occur (col 4:17-35).

**Claim 2 and 9:** McClintic provides a teaching of a vibration condition setting section performs condition setting processing to display a vibration condition setting image on a display (see FIG 1 item 16) and receive vibration condition ssetting by an operation input from the operation section for vibration condition setting to store in storage section (see col. 3:27-50).

**Claim 3 and 4:** McClintic provides a teaching when vibration occurrence simulation states occur simultaneously that cause the vibration mechanism to vibrate, the vibration mechanism control synthesizes a plurality of the vibration content that have been set by the vibration content setting section and control the vibration mechanism (see col. 4:40-55),

**Claim 11:** McClintic provides a teaching of having a plurality of the vibration contents that have been set and controlling the vibration mechanism when a plurality of the simulation states occur simultaneously as conditions that cause the vibration mechanism to vibrate, at the time of driving the vibration mechanism on condition that the vibration occurrence have occurred (col 4:17-35).

**Claim 15-16:** McClintic provides teaching of a program that is capable of performing the method of claim 8 and 9 (see FIG 3 item 32).

**Claim 17:** McClintic provides teaching of a computer-readable information storage medium which stores the program as claimed in claim 15 (see FIG 3 item 32).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. **Claims 5-7 and 11-14 rejected under 35 U.S.C. 103(a) as being unpatentable over McClintic US 6,050,823 and in view of Braun US 6,262,583**

**Claim 5-7 and 12-14:** McClintic does not provide a teaching wherein a plurality of the vibration occurrence states occur simultaneously that cause the vibration mechanism to vibrate, the vibration mechanism control section control the vibration mechanism in accordance with degrees of priority assigned to the simulation states.

However, Braun provides a teaching when a plurality of the vibration occurrence states occur simultaneously that cause the vibration mechanism to vibrate, the vibration mechanism control section control the vibration mechanism in accordance with degrees of priority assigned to the simulation states (see Braun col. 26:22-39, col. 27:34-51 and col.26:65-27-22).

Therefore, it would have been obvious for one of ordinary skilled in the art to include the feature of the vibration mechanism control section control the vibration mechanism in accordance with degrees of priority assigned to the simulation states, as taught by Braun, because it would enable the simulator to correctly provide force effect to the user (see Braun 27-:15-22).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezutto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU

*Ronald Laneau*  
RONALD LANEAU  
SENIOR EXAMINER

7/23/07